

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

RMB HOLDINGS, LLC)	
)	
Plaintiff,)	
)	
v.)	No. 3:07-CV-406
)	(SHIRLEY)
GOLDBERG & ASSOCIATES, LLC,)	
)	
Defendant.)	

MEMORANDUM OPINION

This case is before the undersigned pursuant to 28 U.S.C. § 636(c), Rule 73(b) of the Federal Rules of Civil Procedure, and the consent of the parties, for all further proceedings, including entry of judgment [Doc. 7].

On May 29, 2008, this Court entered an Order [Doc. 24] granting in part plaintiff RMB Holding's Motion for Summary Judgment [Doc. 10], as to defendant Goldberg and Associates' liability. In its Order, the Court declined to rule on the issue of damages since it found that RMB was entitled to punitive damages for the common law claim of intentional misrepresentation or treble damages for the claim under the Tennessee Consumer Protection Act ("TCPA"). The Court instead determined it would be more prudent for RMB to have the opportunity to decide which remedy it preferred and inform the Court at the appropriate time. Thus, on June 11, 2008, the parties appeared before the Court to resolve the issues of damages. Attorney Thomas H. Dickenson appeared on behalf of RMB. Attorney Tamara Klopenstein appeared on behalf of Goldberg.¹ At

¹On June 12, 2008, subsequent to the June 11th hearing, this Court received a letter from Steven Goldberg, managing partner of Goldberg & Associates. In his letter, Mr. Goldberg requested the Court set aside its ruling on RMB's Motion for Summary Judgment. In support of

the hearing, Mr. Dickenson submitted an affidavit in support of his client's request for attorney's fees as requested by this Court [Doc. 27].

In its Memorandum in Support of its Motion for Summary Judgment, RMB respectfully submitted that it is entitled to actual damages in the amount of \$1,833,571.88 plus pre-and post judgment interest, costs, and attorney's fees under the TCPA [Doc. 11]. At the hearing, Mr. Dickenson advised the Court that it was his client's preference to pursue treble damages in this matter pursuant to the TCPA, and accordingly, respectfully submitted that RMB is entitled to treble damages in the amount of \$5,500,715.64. Mr. Dickenson also submitted an affidavit in support of RMB's request for attorney's fees and expenses in the total amount of \$17,064.97 [Doc. 27].

The Court has reviewed RMB's requests and finds them to be well-taken. Accordingly, this Court **GRANTS** RMB's Motion for Summary Judgment [**Doc. 10**]. RMB is hereby awarded a judgment in the amount of Five Million Five Hundred Thousand and Seven Hundred Fifteen Dollars and Sixty-Four Cents (\$5,500,715.64), plus the additional amount of Seventeen Thousand and Sixty Four Dollars and Ninety-Seven Cents (\$17,064.97) in attorney's fees and expenses for a total

his request. Mr. Goldberg advised the Court that he intends to try to reach an amicable settlement with plaintiff. Mr. Goldberg further advised that Ms. Klopenstein notified him she was withdrawing as counsel on defendant's behalf. However, no motion to withdraw having been filed in this matter by Ms. Klopenstein, see L.R. 83.4, this Court proceeds with Ms. Klopenstein as attorney of record for defendant. While this Court acknowledges the letter received by Mr. Goldberg, it declines to entertain his request since it was not filed as a motion by his attorney of record, and thus, not before the Court for consideration.

judgment in the amount of Five Million Five Hundred Seventeen Thousand Seven Hundred Eighty Dollars and Sixty-One Cents (\$5,517,780.61), with postjudgment interest thereon as provided by 28 U.S.C. § 1961.

JUDGEMENT TO FOLLOW.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge